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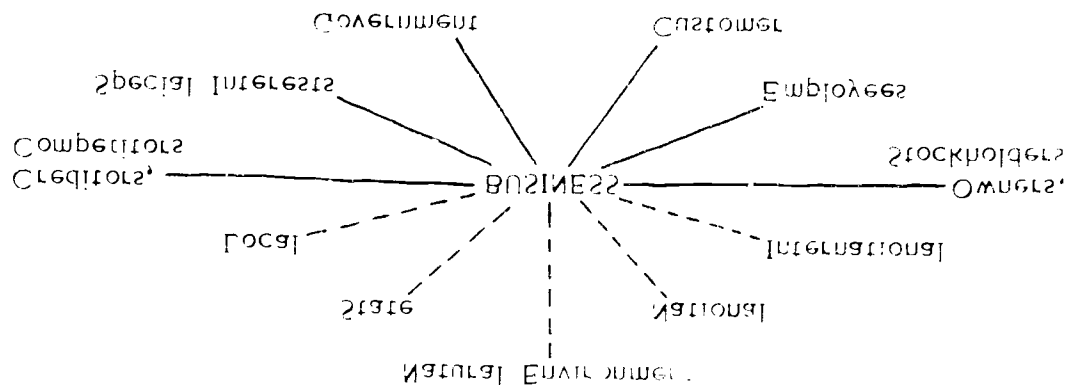
COMPETITION IN THE FRANCHISE BUSINESS

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these disputes and helped establish and enforce fair business practices. and the Federal Trade Commission (FTC) have become involved in some of in this type of business relationship. The Securities Exchange Commission (SEC) markets. The lesson exposes students to some of the problems that have arisen expertise to many small businesses who serve as retail outlets for local business relationship which a successful national company join name and and services from these businesses. Franchising offers students a look at a food, gas, clothes, records, night's lodgings, and hundreds of other products. Many of us are quite familiar with this business because as consumers we buy This unit introduces students to the franchise type of business organization.

THE BUSINESS DECISION-MAKING ENVIRONMENT



business decision-making environment. focuses on a specific issue which highlights a particular relationship in the business and, in turn, are affected by business decisions. Each BIC lesson brings business competitors and creditors, and government. These groups affect conflicting interests: stockholders, consumers, employee, special interest groups, companies and the nation. This business environment judges many groups with studies and activities help students understand the setting in which American difficult and complex decisions that face the business community today. Case Business Issues in the Classroom (BIC) introduces students to exciting, OVERVIEW

COMPETITION IN THE FRANCHISE BUSINESS

... to judge of why such a business organization developed.
 b. ... areas of customers of franchise establishment ...
 ... to the extent of students, knowledge of franchising. They are
 and then turn to the activity on b. 5. This activity can help you

Day 1 Discussion: Have the students read the introduction to the unit, b. 1.
 CLASSROOM APPLICATIONS

4 or more class periods

TIME FRAME

and franchisees.

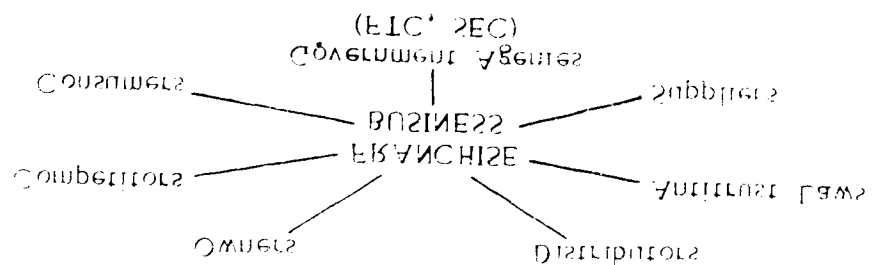
- 1. Give examples of unfair business practices on the part of franchisors
- 2. List advantages and disadvantages of the franchise type of business.
- 3. Define a franchise.

Students will be able to:

Objectives

... worksheet helps students review the terms used in the lesson.
 case studies and one legal case that illustrates problems in franchising. A
 activity focusing on a contract between franchisor and franchisee, five fictional
 Activities in this unit include readings on the franchise relationship, an

THE FRANCHISE ENVIRONMENT



Instructional Guide

Competition in the Franchise Business

group to give their opinions on the five disputes.

Suggested answers to these questions are given below. Ask each franchisee, and consumers,

are fair or unfair. Ask them to identify the interests of franchisor, class into small groups and have them decide if the business practices illustrate problems between the franchisor and franchisee. Divide the

Day 3 Small Group Discussion: Refer students to the cases on b. 2-e which

contract.

2. Specific reasons for terminating the lease should be listed in the and record books.

4. The franchisor must provide managerial assistance including manuals when changing conditions cause significant sales losses.

3. The franchisor must assist the franchisee to relocate his business operating a company-controlled competitive business.

5. The franchisor must not invade the assigned business territory by advertising of franchisee's business.

1. The franchisor must aid the franchisee in the promotion and

protection:

to get the following provisions written into the contract for his or her should the franchisor do for the franchisee. The franchisee might try arrangement for the franchisor. One of the questions raised is, "What

The contract presented on b. 4 lists many favorable aspects of the bring them back as a full class and examine the contract together.

6. Group has discussed the agreement and answered the questions.

7. and have them examine the franchise agreement on b. 4. After

8. "Franchise Relationship" on b. 3. Then divide the class into small

Day 5 Reading and Small Group Work: Either individually or as a class, read

unit.

Worksheet on b. 3 of p. 117 to discuss students' views on this case to describe various business practices. The vocabulary be sure that students understand some of the legal terms background information on b. 3 of this guide.

Before explaining the Supreme Court's decision, broiled in the cases against Carvel. Discuss the students' reaction to the charges b. 3-8. The students' materials only give the charges promulgated by the

Day 4 Discussion: As a group, read the legal cases, Zippel v. Carvel Corp. on

brochures.

of an emergency, the court has a substitute instead of the usual of the need for the franchisor to maintain quality control. In the case it is perfectly legal to require you to use a specified product because

CASE 2 -- Unusual Cause

company stores, competition.

agreement -- allowing an exclusive area to the franchisee. Free of this action by the franchisor may be prohibited by the franchise

CASE 4 -- Little Truck

lose her license because of a \$25,000 error.

deficiencies are discovered by an audit. It is unlikely that she would the franchise contract should state what the procedure should be if

CASE 3 -- Melted Butter

terminate the license.

services are not unreasonable, then the company has the power to if the company can prove that their demands for cleanliness and speed

CASE 5 -- Bitter Beans

business to fail.

lower his prices. Jack's prices may be out of line and cause his that is no coercion. It is okay for the company to encourage Jack to the franchisor can suggest prices based on market research. As long as

CASE 1 -- McNamara's

Follow-up: as a resource to explain recent developments in franchising.
 Day 3: as a discussion leader for the fictional or legal case studies.
 The business participants in the following

activity a classroom

Business Foundation at [blank] 2031 and ask the BIC placement coordinator to
 least two weeks before you want a resource person, call the Constitutional
 business professionals who are prepared to teach one day of this lesson. At

The Business Issues in the Classroom program (BIC) has a talented group of
 BEING A RESOURCE PERSON IN THE CLASSROOM

franchising and fair business practices.

You also might invite a business person or lawyer to join your class to discuss
 unfair business practices for both the sole proprietorship and the corporation.
 Environment are two BIC units that examine business decision making and
 complex business environment. The Hamburger War and The Business

This lesson can be extended by using it as an introduction to the more

these lesser known businesses.

businesses that are franchised. They might try to discover some of
 that in addition to fast food restaurants, there are many other
 about the advantages and disadvantages of franchising. Remind them
 for [blank] the chart on p. 5 of the student materials which asks
 manager [blank] in their communities. They might use as a basis

this unit. Students might conduct an interview study of owners of
 Day 2 Follow-up Activities: If time permits there are several ways to extend

-e-

the franchisee.

important because they establish legal business practices for the franchisor and better delivery terms or cheaper supplies. Laws such as antitrust laws are good on time. The franchisee may want to use other suppliers who offer quality of service or product is maintained. Suppliers must receive payment for a source of expertise for the franchisee. Employees must be supervised so that must fulfill those legal obligations. The owners or parent company can also be sales. Owners have certain rights set out in the contract and the franchisee may offer a better product or a lower price which will affect the franchisee's market area can become too crowded with similar establishments. Competition All of the elements could play an important role in the franchise business. The

4. timing arrangement

2. franchisor

6. franchisee

1. trademark

3. exclusive dealing

5. price fixing

Answers to VOCABULARY WORKSHEET, p. 8

-A-

the

or. The franchisee can not go anywhere else to buy
franchisee is restricted to buying supplies and products from the
Exclusive dealing arrangement: an arrangement in which the

to buy other products from the franchisor.

will sell one product only if the purchaser (the franchisee) agrees
 tying arrangement: an agreement in which the franchisor (Carter)

price in the market.

the unlawful purpose of raising, lowering, fixing, or stabilizing a
made between two or more persons for

The significance of this case lies in

ROSSER v. CARVER

FTC that it was an unfair method of competition.
the open market, to encourage competition. The Supreme Court agreed with the
The concern of the antitrust law is to encourage purchasers, freedom to buy on
competitive lines. The FTC charged that this was an "unfair trade practice,"
had required franchised stores to buy only Brown shoes and not any
it was held that Brown shoe had violated the Federal Trade Commission Act. In
famous Brown shoe case, FTC v. Brown Shoe Company, 384 U. S. 316 (1966),
been active in franchise disputes. Antitrust laws prohibit price fixing. In the
Federal Trade Commission and the Securities Exchange Commission (SEC) have
Government regulatory agencies have been involved in franchise disputes. The
There have been difficulties in the franchise business and several
Problems in the Franchise Business

BACKGROUND INFORMATION

justice doubly control.

products, such as Carvel ice cream, be under the control of the franchisor. The Court also noted that it is in the best interest of the public that trademarked of a chain offering identical products at a uniform standard of quality. The operation in the public's interest. Customers could identify each store as part not unduly interfere with free competition in the marketplace. Carvel was the Court found that Carvel was justified in its arrangements and that it did and Carvel-approved products was an unlawful exclusive dealing arrangement.

The final issue was whether the requirement that a dealer sell only Carvel Exclusive Dealing Arrangement.

business by the franchisees.

and to the only remaining products important to the Carvel trademark be arrangement was justified. Carvel had an interest in preserving its brand with unlawful tying arrangement. Two of the three justices found that the

The second charge against Carvel was that the franchise involved an Tying Arrangement.

business, and the Court did not find this to be unlawful.

agreement clearly set out that each dealer had the right to set his or her own products passed on the marketing research done by Carvel. However, the price fixing. The agreement after 1922 merely recommended prices for the charged by the dealers for the ice cream products. This the Court found to be contract agreements. The one before 1922 set certain prices that had to be taking part in illegal price fixing. The Court had to look at two different

After reviewing the case, the Court found that Carvel Corporation was not Price Fixing.

Revised, 1983
 Los Angeles, California
 Constitutional Rights Education
 Business Issues in the Classroom
 Author: Elysis E. Maxey

Student Materials

COMPETITION IN THE FRANCHISE BUSINESS

6. VOCABULARY WORKSHEET

7. RECALL CASE STUDY

8. CASE STUDY: Success in Car Wash Collaboration

9. ACTIVITY: Examples in Franchising

10. READING: The Franchise Relationship

11. ACTIVITY: Collaboration in the Franchise Business

Activities in this unit include:

Franchise Controls

Learn its contract with a dealer because the dealer has failed to maintain the brand company for public business practices. The company may refuse to sue, own business. But sometimes the relationship is strong. Dealers may sue certain unfairly and is in demand; this eliminates some of the risks of starting business but starting out in business. The dealer knows that the product is of a reliable one. The experienced company helps out the dealer who may be a

Often the relationship between the brand company and the dealer is a relationship.

employee or as a consumer. In this unit we will study this type of business for the use of their names. You may be familiar with franchises as an products with the aid of independent business people who buy those companies nationally recognized company such as YSCO, McDonald's or Del Taco sells its

One way for a business to expand rapidly is through franchising. A

COMPETITION IN THE FRANCHISE BUSINESS

Student Materials

INTRODUCTION

	Franchisor	
	Franchisee	
ADVANTAGES	FOR	DISADVANTAGES

List as many advantages and disadvantages of franchising as you can:
and sell its products. Why would that Company want you to open an outlet,
with a national trademark, such as Standard Oil or McDonald's, to use its name

If you wanted to start your own business why would you buy a company
a business is called the franchisee.

owner of the trademark is called the franchisor. The person licensed to operate
conditions, and gives the owner of the trademark a percentage of sales. The
for the use of the name, signs a contract agreeing to operate under certain
product or service under that trademark name. The business person pays a fee
granted by the owner of a trademark permitting a business person to sell a
franchise. A franchise is a type of business. A franchise also means a license

All of these businesses have something in common. They are examples of

Baskin-Robbins Dunkin', Holiday Inn
Chevron Kentucky Fried Chicken Pizza Hut
McDonald's Burger King Just-a-Tune

COMPETITION IN THE FRANCHISE BUSINESS

ACTIVITY

Student Materials

Competition in the Franchise Business

visits. Franchising involves cooperation by both parties.

The customer can expect the same product no matter what store he or she visits. The franchisor, however, has an interest in maintaining uniformity so that franchisees. They often are the first to recognize changes in customers' tastes for independence. The parent company has much to learn from the individual suggests that a successful franchisor must learn to cooperate with this desire of clients, not to run a business using his or her own ideas. Franchisees and local independence from the franchisor. The franchisee doesn't want to simply follow

As the franchisee grows more confident, he or she may want more making the right decisions.

wisdom of the "parent." He or she may be puzzled in operating a business and for the beginner in business. The "child" is the franchisee who depends on the

The "parent" is the franchisor who provides advice, guidance, and support to growing up in a family.

companies have suggested that there is a "psychology" of franchising, similar

Robert Emmons and Leonard Koler, consultants to many franchise

The Psychology of Franchising

Restaurants

Company-owned



Franchisee restaurants



Corporation
Bancake City

the franchisees.

owned by the franchisor (company stores) and other outlets that are owned by economy of national name brands. Many franchisors have some outlets that are personalized the service to the customer while providing the quality and of business organization that gave security to a small business ownership and

Franchising really caught on in the 1920s in America. It provided a form

THE FRANCHISE RELATIONSHIP

-ff-

and franchisee protected by this contract;

advantages and disadvantages of franchising; and the rights of both franchisor

Do you think this is a fair contract? Can you add anything to your list of

10. The term of this contract is 5 years.

three years after the termination of this contract.

7. You may not open a new business similar to BANCAKE CITY for
CORPORATION.

8. You must pay 2% of your gross sales to BANCAKE CITY

9. You must pay an advertising fee equal to 1% of gross sales.
the BANCAKE CITY CORPORATION.

6. You must submit to monthly inspections by representatives of
CITY restaurants.

5. Your restaurant building must look like all other BANCAKE
now to manage a store.

corporate headquarters and two BANCAKE CITY stores to learn

4. You must go through six weeks of intensive training at the
CITY or its designated suppliers.

3. You must purchase the bancake pattern formulas from BANCAKE
CORPORATION.

2. You must locate in a particular site chosen by BANCAKE CITY
CITY, its trademarks, secrets, and methods of operation.

1. You must pay an initial fee of \$20,000 for using BANCAKE

THE FRANCHISE AGREEMENT

You to get a license to operate a BANCAKE CITY restaurant:

Let's say the franchisor lays down the following conditions in order for
management by the franchisor, and termination of licenses without just cause.

process. Franchisees began complaining about excessive prices for supplies,

be out of business. The life savings of a franchisee could be lost in this

to sell large numbers of franchises to hundreds of individuals, and then would

beginning to receive attention. Companies came into existence just long enough

by the 1980s, some of the abuses of the franchise relationship were

examination of all financial records by an accountant.

The stores must be audited each year according to the contract. An audit is an
Today, she owns three stores and makes a total of \$ million dollars in sales.

Melinda Smith bought her franchise in a Mexican fast-food chain in 1982.
CASE 3

operate one of their franchises.

His store and improve service or else Jean would terminate his license to
daily store and slow service. Now they were demanding that he either clean up
Jean Combaul. They accused him in several inspection reports of paying a
high school and college students. Then he started paying trouble with the Blue

Karl did just that, and in one year had a booming business selling jeans to
to get up his store.

Learned her national advertising, a top-selling brand, and helpful advice on how
outlets in his part of the city. He could get a franchise for \$30,000 and in
business. He heard from a friend that Blue Jeans Franchise was licensing

Karl found had worked as a salesman for 10 years and wanted his own
CASE 5

cover costs.

expensive Martin and has to pay high rent. He says that he raises his prices to
much more than the company's recommended prices. Jack is located near the

The local McMurtry Restaurant owned by Jack Fraser always charges
prices of the food and the new, suggested price next to it.

months, the company sends a list of suggested prices and printed signs with a

McMurtry's has 1,500 franchise restaurants all over the U. S. Every few
CASE 1

people;

franchisees. Is there anything unfair or illegal in the actions of the business

Read each of the following accounts of conflicts between a franchisor and

PROBLEMS IN FRANCHISING

Student Materials

ACTIVITY
Competition in the Franchise Business

* 202261 v. CARLEI CORP. 335 F.3d 202 (1st Cir. 2003).

the recommended prices.

For his or her own business, and Carlei never intended to enter the market. The second agreement clearly set a price for the product, and the first to market recommended prices for the product, and the second to market recommended prices for the product. The agreement set a price for the product, and the first to market recommended prices for the product. The agreement set a price for the product, and the first to market recommended prices for the product.

Moreover, and the agreement set a price for the product, and the first to market recommended prices for the product. The agreement set a price for the product, and the first to market recommended prices for the product. The agreement set a price for the product, and the first to market recommended prices for the product.

The court examined the franchise agreement which governed the business of the company and the agreement set a price for the product, and the first to market recommended prices for the product. The agreement set a price for the product, and the first to market recommended prices for the product.

3. Was there an unlawful price fixing agreement?

5. Was there an unlawful price fixing agreement?

1. Did the franchisees (Carlei Corp.) fix prices?

These questions:

of franchisees. As you read the case, think about the answers to this is an actual case of conflict between a franchisee and a group

202261 v. CARLEI CORPORATION
THE ICE CREAM BUSINESS

workplaces.

Such an arrangement is unlawful if it is an illegal interference with competition in the oil carrier-abbolved blocs was an unlawful exclusive dealing arrangement.

The final issue was whether the respondents that a dealer sell only Carrier tires to get their own subscribers simply to get the benefit of Carrier's name. Lobbying from them. The franchisees claimed that this unfairly limited their competition only by their dealer's exclusive use claim if they also could come and agree to sell another independent blocs as well. Carrier insisted dealers the vendor (Carrier in this case) will sell a blocs only if the purchaser unlawful illegal. A illegal arrangement is an agreement under which

The second charge against Carrier was that the franchise involved an

Explain how the items you chose affect the franchisee's business.

FRANCHISEE

OWNERS OF TRADEMARK

MARKET AREA

LAW

EMPLOYEES

CUSTOMERS

COMPETITORS

SUPPLIERS

environment that you think is important.

Draw a line between the franchisee and each part of his or his or her in a franchisee's business, which of the following elements are important:

trademark name

1. business licensed to sell a product or service under the

2. owner of the trademark

products from the franchisor

3. an arrangement that requires dealers to buy several different products

4. franchisor sets the prices which dealers must charge for its franchisor's products

5. an arrangement that requires the dealer to sell only the products or services

6. a business's registered emblem or name used to identify its

TRADING ADVANCEMENT

FRANCHISEE

EXCLUSIVE DEALING

PRICE FIXING

TRADEMARK

FRANCHISOR

Place the correct word next to its definition

VOCAUBULARY WORKSHEET

Student Materials

WORKSHEET
Competition in the Franchise Business